

Exhibit 7: Public Review Comments and Conservancy Responses

STATE OF CALIFORNIA

Arnold Schwarzenegger, Governor

NATIVE AMERICAN HERITAGE COMMISSION

915 CAPITOL MALL, ROOM 364
SACRAMENTO, CA 95814
(916) 653-4082
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April 11, 2007

Ms. Susan Corbaley
State Coastal Conservancy
1330 Broadway, 13th Floor
Oakland, CA 94612

RE: SCH# 2007042034- Lost Coast Headlands-Fleener Creek Trail; Humboldt County.

Dear Ms. Corbaley:

The Native American Heritage Commission (NAHC) has reviewed the Notice of Preparation (NOP) referenced above. The California Environmental Quality Act (CEQA) states that any project that causes a substantial adverse change in the significance of an historical resource, which includes archeological resources, is a significant effect requiring the preparation of an EIR (CEQA Guidelines 15064(b)). To comply with this provision the lead agency is required to assess whether the project will have an adverse impact on historical resources within the area of project effect (APE), and if so to mitigate that effect. To adequately assess and mitigate project-related impacts to archaeological resources, the NAHC recommends the following actions:

- ✓ Contact the appropriate Information Center for a record search to determine:
 - If all or a part of the APE has been previously surveyed for cultural resources.
 - If any known cultural resources have already been recorded on or adjacent to the APE.
 - If the probability is low, moderate, or high that cultural resources are located in the APE.
 - If a survey is required to determine whether previously unrecorded cultural resources are present.
- ✓ If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
 - The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for public disclosure.
 - The final written report should be submitted within 3 months after work has been completed to the appropriate regional archaeological Information Center.
- ✓ Contact the Native American Heritage Commission for:
 - A Sacred Lands File Check.
Please describe the project's location in terms of USGS quadrangle name, township, range, and section.
 - A list of appropriate Native American Contacts for consultation concerning the project site and to assist in the mitigation measures. **Native American Contact List Attached**
The NAHC makes no recommendation or preference of a single individual, or group over another. This list should provide a starting place in locating areas of potential adverse impact within the proposed project area. I suggest you contact all of those indicated, if they cannot supply information, they might recommend other with specific knowledge. If a response has not been received within two weeks of notification, the Commission requests that you follow-up with a telephone call to ensure that the project information has been received. If you receive notification of change of addresses and phone numbers from any these individuals or groups, please notify me. With your assistance we are able to assure that our lists contain current information.

Lack of surface evidence of archeological resources does not preclude their subsurface existence. Lead agencies should include in their mitigation plan:

- Provisions for the identification and evaluation of accidentally discovered archeological resources, per CEQA Guidelines §15064.5(f).
- Provisions for monitoring all ground-disturbing activities in areas of identified archaeological sensitivity by a archaeologist meeting the professional qualifications as defined in the in the *Secretary of the Interior's Standards and Guidelines* for archaeology and a culturally affiliated Native American monitor.
- Provisions for the curation of recovered artifacts, per CEQA Guidelines 15126.4(5)(b)(3)(C), in consultation with culturally affiliated Native Americans.

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- Provisions for discovery of Native American human remains. Health and Safety Code §7050.5, CEQA Guidelines §15064.5(e), and Public Resources Code §5097.98 mandates the process to be followed in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery.

Sincerely,



Katy Sanchez
Associate Governmental Program Analyst
(916) 653-4040

CC: State Clearinghouse

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COASTAL CONSERVANCY
OAKLAND, CALIF.

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Native American Contacts

Humboldt County

April 11, 2007

Blue Lake Rancheria
Claudia Brundin, Chairperson
P.O. Box 428
Blue Lake, CA 95525
blrt@tidepool.com
(707) 668-5101
(707) 668-4272 Fax

Wiyot
Yurok
Tolowa

Bear River Band of Rohnerville Rancheria
Bruce Merson, Tribal Administrator
32 Bear River Drive
Loleta, CA 95551
(707) 733-1900
(707) 733-1972 (FAX)

Wiyot
Mattole

Bear River Band of Rohnerville Rancheria
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(707) 733-1972 Fax

Wiyot
Mattole

Wiyot Tribe
Andrea Davis, Environmental Coordinator
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(707) 733-5601 Fax

Wiyot Tribe
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(707) 733-5601 Fax

Wiyot

Bear River Band of Rohnerville Rancheria
Edwin Smith, Environmental Coordinator/Cultural
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(707) 733-1972 (FAX)

Wiyot
Mattole

Wiyot Tribe THPO
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Wiyot

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(707) 668-5101
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Wiyot
Yurok
Tolowa

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH#2007042034, Lost Coast Headlands-Fleener Creek Trail; Humboldt County.

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Native American Contacts

Humboldt County

April 11, 2007

Blue Lake Rancheria
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Blue Lake Rancheria
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Blue Lake Rancheria THPO
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pangell@bluelakerancheria-nsn.gov
(707) 668-5101

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May 4, 2007

Ms. Katy Sanchez
Native American Heritage Commission
915 Capitol Mall, Room 364
Sacramento, CA 95814

RE: Comments on Proposed Mitigated Negative Declaration – Lost Coast Headlands Fleener Creek Trail, Humboldt County (SCH# 2007042034)

Dear Ms. Sanchez:

Thank you for your comments on the proposed Mitigated Negative Declaration for the Fleener Creek Trail project in Humboldt County. After reviewing your comments and consulting with our project partner, the Bureau of Land Management, Arcata Field Office (BLM), we have revised the Mitigation Monitoring and Reporting Plan as proposed (attached). We believe that the plan, as revised, addresses your concerns for addressing possible discovery of archeological artifacts or human remains during the course of trail construction.

In response to your comments concerning the extent of literature, file, and field reviews conducted by the BLM during its trail planning efforts, we consulted with BLM staff to clarify and verify that the necessary reviews were performed, and that the results were included in the Environmental Assessment (EA) conducted by BLM to make a Finding of No Significant Impact (FONSI) for the project. As allowed by the California Environmental Quality Act, the Conservancy is using the BLM FONSI in lieu of preparing its own Mitigated Negative Declaration.

The EA for the Fleener Creek Trail project states that "A pre-field review of the archaeological data base, ethnographic, and historic literature and records..." were done. In order to complete the pre-field review, the BLM Archaeologist conducted a search of the database available through the North Coast Information Center (NCIC) which found no known resources in the area, conducted an interview of a member of a local Wiyot Rancheria, and reviewed additional literature and information sources referenced in other EAs conducted for projects that encompass the project area.

The BLM reviewed an EA for the Centerville Bluffs Grazing Allotment, dated 2002, which surrounds the trail project area, and includes a review of Loud, Llewellyn L. 1918 "The Ethnogeography and Archaeology of the Wiyot Territory", and Tuttle, Donald C. 2002 "Historical Significance of Barri Trust/Lot Line Adjustment, Centerville, CA". Government Land Office Plats of various dates from 1894 were also reviewed.

Information for a more recent project, the re-alignment of Centerville Road (on the bluffs adjacent to and above the Fleener Creek Trail project area), performed by Humboldt County, was also reviewed by BLM. For that project, the Federal Emergency Management Agency hired a

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professional Archaeologist to perform a literature review and archaeological field survey. The record search was conducted for an area having a 1/4 mile radius around the project, which encompasses the entire trail project area. The NCIC was contacted and the search was negative for known resources in the project area.

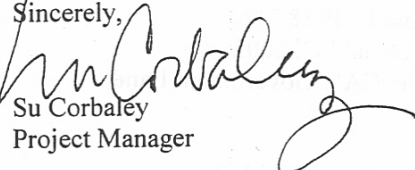
In 2001, the BLM contacted the Bear River Band of Rohnerville Rancheria; member "Eleanore Smith" was interviewed.

The BLM Archaeologist stated in the EA that she performed a field examination of the general area in 2001 to determine if any prehistoric, ethnographic, and/or historic properties could be located. None of the ethnographic Wiyot Indian sites could be located nor were any prehistoric archaeological sites found. At the time of this survey, the trail was not flagged to its exact route and nearly half the trail location area was encumbered with dense brush, making it impossible to conduct a thorough survey. A more intensive site-specific survey will be conducted immediately after the trail is brushed out enough to allow the BLM Archaeologist adequate access. At the termination of this field survey, an "Archaeological Field Examination survey unit record" will be completed.

Finally, the BLM has developed a nationwide Programmatic Agreement and State Protocol Agreement that governs how the BLM shall meet its responsibilities under the National Historic Preservation Act (NHPA). Authorities for managing cultural resources and programs of historic preservation exist under NEPA, FLPMA, the Archaeological Resources Protection Act, the Native American Graves Protection and Repatriation Act, the Historic Sites Act, the Antiquities Act, the American Indian Religious Freedom Act, Executive Order 13007 ("Sacred Sites", 61 FR 105), and the National Historic Preservation Act. BLM shall adhere to these provisions and relevant provisions of California law in the event it becomes necessary during trail construction.

The revised Mitigation and Monitoring Plan provides further specificity to ensure that the matters described above will be incorporated as part of the project. In addition, your letter and this response will be included as part of the CEQA documentation submitted to the Conservancy when it considers approving the project at its public meeting on May 24.

We hope this information proves satisfactory to address the NAHC's concerns about the Fleener Creek Trail project. I will be contacting you to discuss this further. Thank you for your consideration of this information.

Sincerely,

Su Corbaley
Project Manager

cc: Marcia Grimm, Senior Staff Counsel

Attachment – Fleener Creek Trail Mitigation Monitoring and Reporting Plan

Lost Coast Headlands – Fleener Creek Trail

Mitigation Monitoring and Reporting Plan *California State Coastal Conservancy*

1.0 INTRODUCTION

This Mitigation Monitoring Plan has been developed for the Mitigated Negative Declaration adopted by the Coastal Conservancy for the Lost Coast Headlands – Fleener Creek Trail project pursuant to the California Environmental Quality Act (CEQA).

Section 15097 of the Guidelines for CEQA requires a program for mitigation monitoring or reporting when a public agency adopts a mitigated negative declaration in conjunction with approving a project. The purpose of the Mitigation Monitoring Plan is to ensure that mitigation measures discussed in the Environmental Assessment which was prepared under the National Environmental Policy Act (“NEPA”) by the Bureau of Land Management (“the BLM”) for avoiding potential impacts are implemented. The mitigation measures for this project address potential impacts to cultural resources and pedestrian safety from cattle grazing.

Mitigation Measures

Cultural Resources

Although database and literature review indicated that several ethnographic Wiyot Indian camps had been located along the beach/creek interfaces in the area, a 2001 BLM field-review of the project site found no evidence of prehistoric, ethnographic, and/or historic properties in the immediate project area. The BLM also reviewed the North Coast Information Center’s archaeological data base and relevant literature, including literature reviews and field surveys carried out in 2002 and 2003 for unrelated projects encompassing this project area. No evidence of prehistoric, ethnographic, and/or historic properties was found. Nonetheless there is potential for a buried prehistoric site and/or human remains to be found during construction.

Mitigation measure: Prior to any surface disturbing activities associated with trail construction, the BLM will conduct a site-specific cultural survey in the immediate location of the trail to identify any potential archaeological/cultural sites or artifacts.

If any cultural materials, sites, or properties should be discovered during the construction of the trail, a qualified archaeologist will evaluate the finds and appropriate protection measures consistent with the requirements of 14 California Code of Regulations §1504.5(f) will be taken, if necessary. In the event that any human remains are encountered or in the event that unassociated funerary objects, or grave goods are discovered, work in the immediate vicinity of the discovery, other than non-disturbing documentation, shall cease and BLM shall comply with applicable State laws (14

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California Code of Regulations §15064.5(e), Health & Safety Code §75050.5, and Public Resources Code §5097.98), Native American Graves Protection and Repatriation Act (NAGPRA) as outlined at 43 CFR 10 and, Archaeological Resources Protection Act (ARPA) at 43 CFR 7.

Public Safety

The Fleener Creek Trail will be located on and traverse through agricultural lands actively grazed under a lease. Although the cattle are grazed only during the spring and early summer for a period of approximately two months annually, and observations indicate the cattle tend to graze away from the trail location on flatter ground, there is the potential for interaction between hikers and cattle.

Mitigation measure: In the event that cattle begin using the trail, or come to close to hikers, the BLM will evaluate the need for installing fencing to separate the uses. The fencing could be installed on a temporary seasonal basis, or it could be installed permanently if over time the cattle continue to use the trail.

Reporting

The State Coastal Conservancy is the lead state agent under CEQA and as such has developed this plan to accompany the EA prepared by BLM. As the landowner and manager, the BLM will monitor project implementation to ensure that mitigation measures are incorporated if needed, and will report to the Conservancy upon completion of project construction as to any measures taken during construction and thereafter, when, and if, mitigation measures become necessary.